

Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Ampex Data Systems Corporation

**File:** B-248112

**Date:** July 30, 1992

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for the protester.

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Department of the Army, for the agency.

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participated in the preparation of the decision.

### DIGEST

Protest is denied where protester fails to demonstrate that agency unreasonably determined that awardee's proposal was technically acceptable under evaluation subfactors governing the availability of spare parts and repair manuals and the training and experience of service personnel.

### DECISION

Ampex Data Systems Corporation protests the Department of the Army's award of a contract for maintenance services for Ampex recording equipment at White Sands Missile Range to Datatape, Inc. under request for proposals (RFP) No. DAAD07-91-R-0143. Ampex contends that Datatape's proposal should have been rejected as technically unacceptable because it failed to comply with the solicitation's minimum requirements concerning the provision of replacement parts and repair manuals and the training and experience of service personnel.

We deny the protest.

The RFP requested offerors to furnish corrective and preventive maintenance on government-owned Ampex, Bell and Howell, and Honeywell recording equipment.<sup>1</sup> The solicitation contemplated award of a firm, fixed-price contract for a base period of 6 months and for four 1-year and one 6-month option periods to the responsible offeror submitting the

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<sup>1</sup>The Army awarded the Bell and Howell and Honeywell items, as well as the Ampex items, to Datatape, but the protester does not challenge these awards.

lowest priced, technically acceptable proposal for the items under each manufacturer's group. The RFP further provided that in order for a proposal to be rated technically acceptable, it must be rated acceptable on each evaluation factor and subfactor.

Only Ampex and Datatape submitted proposals for the Ampex items, which included both rotary and longitudinal data recording devices. After discussions, the Army determined that both proposals were technically acceptable and selected Datatape's, which was lower in price, for award.

Ampex argues first that the agency unreasonably determined Datatape's proposal to be technically acceptable under the technical evaluation subfactor governing replacement parts. This subfactor provides that:

"The proposal will be evaluated to determine to what extent the offeror has demonstrated the ability to maintain a supply system which will assure a stock level of replacement parts not readily available on the open market, to include current inventory, procurement procedures, source, availability and delivery time. This includes replacement parts for the equipment to be maintained."

In reviewing an agency's technical evaluation, our Office will not independently determine the relative merit of an offeror's proposal, but will examine the agency's evaluation to ensure that it had a reasonable basis. Bellsouth Gov't Sys., Inc., B-231822.3, Mar. 28, 1989, 89-1 CPD ¶ 313. Here, the agency explains that it found Datatape acceptable under this evaluation subfactor based on Datatape's representation that it had blanket order agreements in place with Ampex itself and with another company which specializes in spare and repair parts and services for Ampex equipment. The agency also noted that Datatape had been able to procure replacement parts for Ampex recording equipment under a similar contract with the Naval Weapons Center, China Lake, California.

The protester contends that the existence of these blanket order agreements and Datatape's successful performance on the China Lake contract do not assure that Datatape will be capable of furnishing spare parts for all of the Ampex equipment to be maintained under the White Sands contract. Ampex notes that although Datatape does have a blanket order agreement in effect with Ampex in Colorado Springs, that facility does not furnish parts for two of the Ampex recorders covered by the RFP, airborne longitudinal and Digital Cassette Recording System incremental motion (DCRSi) recorders; thus, according to the protester, Datatape is

currently in the process of negotiating a second blanket order agreement with Ampex in Redwood City, California, for the missing parts. Ampex states that it is willing to sell the parts to Datatape, but argues that given that the second blanket order agreement is not yet in effect and that it will take some time to fill orders once they have been placed, the agency could not reasonably have concluded that Datatape would be able to furnish parts for these recorders. The protester also argues that the fact that Datatape has been able to obtain spare parts under the China Lake contract does not establish its ability to obtain spare parts for airborne longitudinal or DCRSI recorders since the China Lake equipment does not include these items.

We think that the agency reasonably concluded, based on the blanket order agreements that Datatape had entered into, or was in the process of negotiating, that Datatape had acceptably demonstrated its ability to establish and maintain a spare parts inventory for the Ampex recorders. The RFP did not require that offerors have an inventory of spare parts in place as of the date of award; rather, it required that they have established a procedure for obtaining such an inventory. Since Datatape demonstrated that it had taken steps to ensure the availability of the necessary parts, we think that the agency reasonably determined it to be acceptable under this evaluation subfactor.

The protester argues next that Datatape does not own the repair manuals pertaining to a number of the Ampex items to be maintained and that some of these manuals are not available for purchase on the open market. Thus, Ampex asserts, Datatape has not demonstrated its ability to acquire the necessary repair manuals, as required by the solicitation. In this regard, the RFP provided that:

"The proposal will be evaluated to determine to what extent the offeror has demonstrated the ability to acquire and maintain all repair manuals necessary to perform maintenance services on the equipment to be maintained, to include current inventory, procurement procedures, source availability and delivery time."

Datatape stated in its proposal that it already had a majority of the required technical manuals on hand. Further, in response to a discussion question posed by the agency, Datatape noted that it would purchase all missing technical manuals from a supplier, which had confirmed their availability and committed to delivery within 2 weeks after receipt of an order. Datatape also noted, in response to an agency discussion question, that it would order manuals for non-off-the-shelf equipment from the original equipment manufacturer. We think that, based on these

representations, the agency reasonably rated Datatape acceptable under this evaluation subfactor.

Finally, Ampex contends that Datatape's proposal should have been rejected as technically unacceptable because it did not demonstrate that the proposed service personnel were sufficiently experienced with certain items of Ampex equipment, i.e., airborne longitudinal and DCRSI recorders. In this regard, the protester interprets the solicitation requirement that "service employees . . . possess at least four (4) years of generalized electronic and instrumentation experience and two (2) years of specialized experience on the equipment being maintained" as requiring that the service personnel have at least 2 years of experience or training on every piece of Ampex equipment to be maintained.<sup>2</sup>

While it is possible to read the requirement for 2 years of specialized experience on the equipment being maintained as the protester suggests, we think that the more reasonable interpretation is that it required 2 years of experience with each general category of equipment, i.e., in the case of the Ampex equipment, with Ampex longitudinal recorders and with Ampex rotary recorders. This reading of the provision and the RFP is the less restrictive one; we will read a provision restrictively only where it is clear from

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<sup>2</sup>The protester argued initially that Datatape had failed to satisfy a technical evaluation subfactor requiring that service personnel and backup staff have at least 2 years of specialized and formalized training on the equipment to be maintained. Section M of the RFP provided that proposals would be evaluated "to determine to what extent the training and experience delineated in the resumes of the assigned service personnel and the backup staff . . . equal[s] or exceed[s] . . . two (2) years of specialized and formalized training on the equipment to be maintained. . . ." In response, the agency noted that in referring to 2 years of training, the language of section M deviated from the language of the RFP's statement of work, which required 2 years of specialized experience on the equipment being maintained. The agency further noted that neither Ampex's proposed personnel nor Datatape's fully met a requirement for 2 years of specialized and formalized training. In commenting on the agency report, the protester stated that it agreed with the agency that the 2-year training and experience requirement referred to 2 years of specialized experience on the equipment inventory, rather than to a formalized training program. Thus, we view the protester as having abandoned its argument that Datatape failed to satisfy the solicitation requirement for 2 years of formalized training on the equipment to be maintained.

the solicitation that such a restrictive interpretation was intended by the agency. MAR Inc., B-242465, May 6, 1991, 91-1 CPD ¶ 437. Here, we do not think that it is evident from the RFP that the agency intended the more restrictive interpretation. Nowhere does the solicitation state that experience on every item of equipment is required; instead, it refers only generally to experience with the equipment being maintained.

We do not agree with the protester that the statement in section M that proposals would be evaluated to determine the extent to which the resumes of proposed service personnel demonstrated 2 or more years of training or experience "on the equipment to be maintained, as specified in the contract equipment inventory" (emphasis added), required experience with each of the items listed in the inventory; rather, in our view, the clause merely directed offerors where to look for further information (i.e., manufacturers' model numbers) concerning the items to be maintained. Furthermore, the record contains no evidence tending to suggest that experience with every item would be required to satisfy the agency's need for qualified service personnel. In fact, other provisions of the solicitation indicate the opposite, i.e., section L.11.7.3 required resumes of personnel to be assigned to the contract showing "experience on the type of equipment to be maintained . . . and/or similar equipment." In this regard, although the protester summarizes for us a number of technical features of the DCRS1 recorders which allegedly distinguish them from other Ampex rotary recorders, it has not shown that these differences are significant from a repair/maintenance standpoint.

Since the specification required 2 years of experience with each general category of equipment to be maintained, as opposed to 2 years of experience with every item, we think that the agency reasonably concluded that Datatape's proposed personnel, two of whom had 2 or more years of experience with Ampex rotary recorders and all four of whom had at least 2 years of experience with Ampex longitudinal recorders, met the solicitation's requirements.<sup>3</sup>

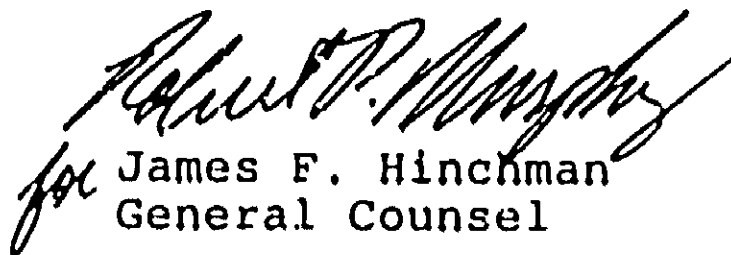
In commenting on the agency report, Ampex raises an additional argument concerning the experience and training

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<sup>3</sup>Even assuming that the agency effectively relaxed the experience requirement--or, for that matter, the other two requirements at issue in the protest--Ampex has not even suggested that it would have changed its proposal in response. Since there thus is no evidence of prejudice to Ampex, there would be no basis on which to sustain the protest in any event. Tektronix, Inc., B-244958; B-244958.2, Dec. 5, 1991, 91-2 CPD ¶ 516.

of Datatape's proposed service engineers, i.e., that Datatape has failed to demonstrate in its proposal that it can provide the required second and third levels of maintenance support for Ampex equipment' and that the proposal should therefore be rejected as technically unacceptable. In response to an agency discussion question concerning its procedures for providing second and third level support, Datatape noted that it would furnish the higher levels of support based upon the ascending levels of experience of its proposed personnel. Since it appears from Datatape's proposal that several of its proposed service engineers did have experience with Ampex equipment beyond the minimum requirement for first level support, we think that the agency reasonably concluded that these individuals would be capable of furnishing the required second and third levels of support.

The protest is denied.

  
for James F. Hinchman  
General Counsel

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'The solicitation identified the second level of maintenance support as individuals with training and experience beyond the minimum of 4 years generalized electronic and instrumentation experience and 2 years of specialized experience on the equipment being maintained who specialize in diagnostic assistance or repair expertise, and the third level of support as individuals with in-depth specialized training and experience who specialize in providing engineering, diagnostic, and consulting services to solve unusually complex problems. It provided that the second level of support should be called if an equipment malfunction had not been diagnosed and repair begun within 2 hours after the arrival of the initial service person and that the third level of support should be called if the equipment had not been restored to operating condition within 4 hours after the arrival of the second level of support.